



Plenary sitting

B8-0854/2016

29.6.2016

MOTION FOR A RESOLUTION

to wind up the debate on the statements by the Council and the Commission

pursuant to Rule 123(2) of the Rules of Procedure

on the recent developments in Poland and their impact on fundamental rights as laid down in the Charter of Fundamental Rights of the European Union (2016/0774(RSP))

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on behalf of the Verts/ALE Group

**European Parliament resolution on the recent developments in Poland and their impact on fundamental rights as laid down in the Charter of Fundamental Rights of the European Union
(2016/0774(RSP))**

The European Parliament,

- having regard to the European Union Treaties, in particular to Articles 2, 3, 6 and 7 of the Treaty on European Union (TEU),
 - having regard to the Commission Communication of 19 March 2014 on a new EU framework to strengthen the rule of law (COM(2014)0158),
 - having regard to the Charter of Fundamental Rights of the European Union,
 - having regard to the European Convention on Human Rights (ECHR),
 - having regard to Parliament's debate of 19 January 2016 on the situation in Poland,
 - having regard to its resolution of 13 April 2016 on the situation in Poland¹,
 - having regard to the Commission opinion of 1 June 2016 on the rule of law in Poland,
 - having regard to the Venice Commission opinion of 11 March 2016 on amendments to the Act of 25 June 2015 on the Constitutional Tribunal of Poland,
 - having regard to the Venice Commission opinion of 13 June 2016 on the Act of 15 January 2016 amending the Police Act and certain other Acts,
 - having regard to the Report of 15 June 2016 by the Council of Europe Commissioner for Human Rights, following his visit to Poland from 9 to 12 February 2016,
 - having regard to Rule 123(2) of its Rules of Procedure,
- A. whereas, under Article 2 of the TEU, the EU is founded on respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, values which are shared by all Member States and which must be upheld by the EU, and by each individual Member State, in all their policies;
- B. whereas the rule of law is the backbone of democracy and is one of the founding principles of the EU, operating on the basis of the presumption of mutual trust that Member States conform with democracy, the rule of law and fundamental rights, as enshrined in the Charter of Fundamental Rights and the ECHR;
- C. whereas Poland, as one of the biggest non-Eurozone Member States, will have an

¹ Texts adopted, P8_TA(2016)0123.

important role to play in shaping the Union's common future;

- D. whereas recent events in Poland have given rise to concerns regarding the ability of the Constitutional Tribunal to uphold the constitution and guarantee respect for the rule of law;
- E. whereas the Venice Commission clearly stated that the Constitutional Tribunal cannot fulfil its role as guarantor of the supremacy of the Constitution of Poland; whereas the Venice Commission warned that crippling the Tribunal would undermine democracy, human rights and the rule of law;
- F. whereas the Commission decided to initiate the structured dialogue under the Rule of Law Framework by sending a letter to the Polish Government with a view to clarifying the situation in Poland; whereas the Commission deemed it necessary to formalise its assessment of the current situation in the Rule of Law Opinion of 1 June 2016;
- G. whereas recent amendments to the Police Act and certain other Acts gave rise to serious concerns on the part of the Venice Commission that the procedural safeguards and material conditions set for implementing secret surveillance are insufficient to prevent its excessive use and unjustified interference with the privacy of individuals;
- H. whereas the Antiterrorism Act was recently adopted within a short period of time, and does not provide for adequate protection against arbitrary actions by authorities;
- I. whereas recent amendments to the Criminal Procedure Code reintroduced the provision that pre-trial detention can be justified on the ground of the gravity of the sentence;
- J. whereas recent amendments to the Prosecution Act again merged the functions of the Minister of Justice and the Prosecutor General and increased the powers of the Prosecutor General/Minister of Justice in the field of appointing and dismissing prosecutors, giving instructions to prosecutors in individual cases and deciding to communicate information pertaining to prosecutorial files to the media;
- K. whereas recent amendments to the Public Broadcasting Service Act led to the immediate expiration of the term of office of members of the public television and radio management and supervisory boards, allowing the Treasury Minister the discretion to dismiss the members of these boards and appoint members for an indefinite term; whereas a more comprehensive regulation of public service media was tabled with the Polish Parliament without public consultation at the preparatory stage; whereas the draft Act on the National Media Council, now pending before the Polish Parliament, does not fully guarantee the impartiality of the National Media Council;
- L. whereas the current abortion law in Poland is already one of the most restrictive in the EU, and the European Court of Human Rights has ruled against Poland in several cases owing to the restrictive interpretation thereof; whereas a bill is being prepared by a group of citizens to introduce a total ban on abortion, which would mean that abortion would be prohibited except to save a pregnant woman's life; whereas a civil law proposal is in the pipeline, supported by NGOs and women's organisations calling for the liberalisation of access to sexual and reproductive health and rights;

- M. whereas the increasingly hostile discourse in public debates concerning LGBTI persons and their rights is encouraging a rising number of attacks on LGBTI institutions in Poland;
- N. whereas the President imposed a veto on amendments adopted to the Act on National and Ethnic Minorities and Regional Languages;
- O. whereas the Environment Minister approved a plan to increase timber extraction in the Białowieża Forest; whereas logging in the Białowieża Forest started in May;
1. Considers it essential to guarantee that the common European values listed in Article 2 of the TEU are upheld in full;
 2. Believes that all Member States must comply fully with EU law in their legislative and administrative practices, and that all legislation, including the primary law of all Member States and candidate countries, must reflect and adhere to basic European values, namely democratic principles, the rule of law and respect for fundamental rights;
 3. Is seriously concerned that the effective paralysis of the Constitutional Tribunal in Poland poses a danger to democracy, human rights and the rule of law; notes that only a properly functioning Constitutional Tribunal is able to ensure the effective overview of recently adopted legislation, which in several cases has raised concerns about the speed of adoption, lack of proper consultation and the impact on fundamental rights;
 4. Urges the Polish Government to respect, publish and fully implement without further delay the Constitutional Tribunal's judgments;
 5. Calls on the Polish Parliament to implement fully the recommendations of the Venice Commission; shares the Venice Commission's opinion that the Polish Constitution, European and international standards require that the judgments of a Constitutional Court be respected;
 6. Supports the Commission's decision to adopt the Rule of Law Opinion under the Rule of Law Framework; calls on the Commission, should the Polish Government fail to comply with the Opinion and the Venice Commission recommendations as soon as possible, to activate the next stage of the Rule of Law Framework by issuing its Rule of Law Recommendation;
 7. Calls on the Commission to include in its structured dialogue with the Polish Government other decisions taken by the Polish authorities that have given rise to concerns as to their legality and potential impact on fundamental rights; urges the Polish authorities to review the Police Act, Antiterrorism Act, Criminal Procedure Code and Prosecution Act, as well as media legislation, in accordance with the recommendations of the Venice Commission and the Council of Europe Commissioner for Human Rights; calls on the Polish authorities to recognise the inalienable rights of women to physical and mental integrity and autonomous decision-making as regards, inter alia, the right to access the full range of reproductive health services, including safe and legal abortion; strongly supports the civil law proposal by NGOs and women's organisations calling for the liberalisation of access to sexual and reproductive health and rights;

acknowledges the efforts made by the Polish Government to support families and children, especially from a disadvantaged background, and calls on the Government to include all forms of families in their efforts and to provide adequate childcare; further urges the Polish authorities to ensure full respect for the rights of persons belonging to minorities, including linguistic rights; welcomes the Commission's launching of an infringement procedure on 16 June 2016 concerning logging in the Białowieża Forest;

8. Urges the Polish authorities to cooperate fully and sincerely with the Commission under the Rule of Law Framework and on other issues;
9. Calls on the Commission to keep Parliament regularly and closely informed of its assessments, the progress made and the actions taken; asks the Commission to present its proposals for a more effective mechanism for the EU reaction to breaches of fundamental values;
10. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Council of Europe and the President of the Republic of Poland.